

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6349 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

INDRAVADAN AMRATLAL MALI

Versus

RR SOLANKI OR HIS SUCCESSOR, ADDL.DIST MAGISTRATE, BULSAR

Appearance:

MS MAMTA VYAS for Petitioners

MR HL JANI for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 28/11/96

ORAL JUDGMENT

Having heard the learned counsel for the parties,
I do not find any substance in this Special Civil Application. The petitioners have failed to show how any of their legal and fundamental rights are being infringed by the respondents by making the order dated 8th December 1986, under which the Notification dated 10th September 1986, has been confirmed.

2. The Addl. District Magistrate, Bulsar, the respondent herein, under its Notification dated 10th September 1986, issued in exercise of powers conferred under Section 33(1)(b) read with Section 33(6) of the Bombay Police Act, 1951 (hereinafter referred to as the "Act 1951"), restricted passing of vehicles from the road in question. This action has been taken by the respondent keeping in mind the safety of children. Restrictions on the use of the said road by heavy vehicles in the facts and circumstances of the present case cannot be said to be unreasonable and bad in law. The petitioners have been given opportunity to make their objections against the Notification and after hearing them said Notification has been confirmed. Ms. Mamta Vyas, learned counsel for the petitioners has made only submission that because of the restriction put for passing of heavy vehicles through the road in dispute, the plot holders of the area will not be able to construct the same as the material necessary for construction of house has to be taken to the plots by heavy vehicles. This is the only apprehension made by the learned counsel for the petitioners. The learned counsel for the petitioners is unable to show how any prejudice or any other loss is likely to be caused to the petitioners because of restrictions put, except the aforesaid apprehensions. In para-16 of the application, the petitioners have come up with the case that construction of 22 houses is in progress since February 1986 and for the purpose of carrying the building material at the site, trucks are required to be taken through the road in dispute. This Court has modified the interim order granted earlier and for the period of three hours, from 12.00 noon to 3.00 pm daily heavy vehicles were permitted to pass through, which is not in dispute. By now construction of houses which was stated to be in progress in this Special Civil Application would have been completed and as such the apprehension which has been sought to be there now no more survive. However, it is made clear that in case in future if anyone needs the passing of truck through the road in dispute to carry therein the building material for construction of houses or for repair, a request shall be made to the concerned authority to permit the truck to pass through the said road and in case such request is made, the authority shall consider the same sympathetically and objectively.

3. In the result, this Special Civil Application fails and the same is dismissed subject to the observations made above. Rule stands disposed of in aforesaid terms. No order as to costs. Interim relief vacated.

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(sunil)